

**THE JUDICIAL SALARIES AND ALLOWANCES  
DETERMINATION 1989**

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PURSUANT to the Higher Salaries Commission Act 1977 and,—

- (a) In relation to the Chief Justice, the President of the Court of Appeal, the Judges of the Court of Appeal and the other Judges of the High Court, to section 9A (1) (a) and (b) of the Judicature Act 1908 (as inserted by section 2 of the Judicature Amendment Act (No. 3) 1985):
- (b) In relation to the Chief Judge of the Labour Court and the other Judges of the Labour Court, to section 290 of the Labour Relations Act 1987:
- (c) In relation to the Chief Judge of the Maori Land Court and the other Judges of the Maori Land Court, to section 21 (1) (a) and (b) of the Maori Affairs Act 1953 (as substituted by section 2 of the Maori Affairs Amendment Act (No. 2) 1985):
- (d) In relation to the Chief District Court Judge, the Principal Family Court Judge, the Principal Planning Judge, and the other District Court Judges, to section 6 (1) (a) and (b) of the District Courts Act 1947 (as substituted by section 2 of the District Courts Amendment Act (No. 3) 1985):
- (e) In relation to Masters of the High Court, to section 26F (1) (a) and (b) of the Judicature Act 1908 (as inserted by section 5 of the Judicature Amendment Act 1986)—

the Higher Salaries Commission hereby makes the following determination (to which is appended an Explanatory Memorandum).

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DETERMINATION

**1. Title and commencement**—(1) This determination may be cited as the Judicial Salaries and Allowances Determination 1989.

(2) This determination shall be deemed to have come into force on the 1st day of April 1988.

**2. Expiry**—This determination shall expire on the 30th day of September 1989.

**3. Salaries of Judges**—(1) The salaries payable to the Judges specified in the First Schedule to this determination shall be paid at the respective rates set out in that Schedule.

(2) The rates of salary fixed by this determination incorporate the adjustments made by the Judicial Salaries Interim Determination 1988 and the Judicial Salaries Interim Determination 1988, Amendment No. 1 to the salaries payable to Judges.

**4. Principal allowances of Judges**—Principal allowances for general expenses shall be paid to the Judges specified in the First Schedule to this determination at the respective rates set out in that Schedule.

**5. Revocations**—The determinations specified in the Second Schedule to this determination are hereby revoked.

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SCHEDULES  
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Cls. 3, 4

**FIRST SCHEDULE  
SALARIES AND PRINCIPAL ALLOWANCES**

	Yearly Rate of Salary Payable on and after 1 April 1988	Yearly Rate of Principal Allowance for general expenses payable on and after 1 April 1988
Chief Justice	165,000	7,300
President of the Court of Appeal	162,000	6,000
Judge of the Court of Appeal	153,000	5,100
Judge of the High Court	145,000	5,100
Chief District Court Judge	135,000	4,500
Principal Family Court Judge	125,000	4,300
Principal Planning Judge	118,500	4,300
District Court Judge	116,000	3,750
Chief Judge of the Labour Court	146,000	5,100
Judge of the Labour Court	137,000	4,300
Chief Judge of the Maori Land Court	130,000	4,500
Judge of the Maori Land Court	116,000	3,750
Master of the High Court	108,000	2,750

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SECOND SCHEDULE  
REVOCATIONS

Cl. 5

Title	Statutory Regulations Serial Number
The Judicial Salaries and Allowances Determination (No. 2) 1987 .. ..	1987/118
The Judicial Salaries and Allowances Determination (No. 3) 1987 .. ..	1987/395
The Judicial Salaries Interim Determination 1988	1988/107
The Judicial Salaries Interim Determination 1988, Amendment No. 1 .. ..	1988/129

Dated at Wellington this 1st day of February 1989.

J. DUNMORE, Chairman.

J. T. F. FRANCIS, Member.

G. L. JACKSON, Member.

EXPLANATORY MEMORANDUM

*Background*

1. The Judicial Salaries and Allowances Determination is the outcome of a review undertaken by the Higher Salaries Commission following the enactment of the Higher Salaries Commission Amendment Act 1988.

2. The last full review of salaries was completed and promulgated in 1985 and was effective from 1 April 1985.

3. A further review in 1986 was affected by the Higher Salaries Commission Amendment Act 1987, which limited salary increases to 10 percent. No further adjustment to salaries was permitted until the 1987 Amendment Act expired on 31 March 1988.

4. Therefore, between 1 April 1985 and 31 March 1988, a period of three years, the salary rates applicable to the judiciary were increased by 10 percent only.

5. In terms of section 8 (2) of the Higher Salaries Commission Amendment Act 1988, the Commission made interim adjustments effective from 1 April 1988 of the order of 9.5 percent to the rates of salary payable to Judges pending the detailed review which has now been completed. As required by section 8 (2) those interim adjustments have been incorporated in the rates of salary fixed by this determination.

6. Adjustments in principal allowances were not restricted by the 1987 legislation, and the Commission determined increases in them with effect from 1 December 1986 in accordance with changes in costs to that date. They were not further adjusted, however, when interim adjustments were made to salaries.

EXPLANATORY MEMORANDUM—*continued*

*Expiry Date*

7. As required by section 19 of the Higher Salaries Commission Act 1977 (as substituted by section 8 of the Higher Salaries Commission Amendment Act 1988), an expiry date for the determination has been prescribed in clause 2 (30 September 1989). It should be noted, however, that section 19 also provides that a determination shall remain in force beyond its stated expiry date until superseded by another determination, and may on the grounds stated in section 19 (4) be amended at any time.

*Jurisdiction*

8. The Commission's jurisdiction in respect of salaries and principal allowances are contained in section 12B (1) of the Higher Salaries Commission Act 1977 (as amended), which reads as follows:

**"12B. Functions of Commission in relation to judicial salaries and superannuation—**(1) The Commission shall have the function of considering and determining the salaries and principal allowances of—

- "(a) The Chief Justice, the President of the Court of Appeal, the Judges of the Court of Appeal, and the Judges of the High Court; and
- "(b) The Chief District Court Judge, the Principal Family Court Judge, the Principal Planning Judge, and the other District Court Judges; and
- "(c) The Chief Judge of the Labour Court and the other Judges of the Labour Court; and
- "(d) The Chief Judge of the Maori Land Court and the other Judges of the Maori Land Court; and
- "(e) The Masters of the High Court."

9. It is pertinent also to recognise that the Commission has a function of making recommendations to appropriate Ministers concerning superannuation provisions for the judiciary. Its function in this regard is set out in section 12B (2) which reads as follows:

"(2) The Commission shall have the function of making recommendations to the Minister of Justice, the Minister of Labour, the Minister of Maori Affairs, and the Minister of Finance with respect to the matters to which Part IV or Part V of the Government Superannuation Fund Act 1956 applies."

*Criteria*

10. The Commission is bound by the new criteria prescribed by section 18 of the Higher Salaries Commission Act 1977 (as substituted by section 7 of the Higher Salaries Commission Amendment Act 1988), which reads as follows:

"18. (1) In determining any remuneration under section 12 (1) (a) or section 12B (1) of this Act, or under any other enactment, the Commission shall have regard in particular to the following criteria:

- "(a) The need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and
- "(b) The need to be fair both—
  - "(i) To the persons or group of persons whose remuneration is being determined; and
  - "(ii) To the taxpayer or ratepayer; and
- "(c) The need to recruit and retain competent persons.

"(2) In determining the remuneration of any persons or group of persons pursuant to any subparagraph of section 12 (1) (a) of this Act or in determining the remuneration of any persons or group of persons pursuant to section 12B (1) of this Act or under any other Act, the Commission shall take into account—

- "(a) The requirements of the position concerned; and
- "(b) The conditions of service enjoyed by the persons whose remuneration is being determined and those enjoyed by the persons or members of the group of persons whose remuneration and conditions of employment are, in the opinion of the Commission, comparable with those of the persons or members of the group of persons whose remuneration is being determined."

*Principles*

11. The principles followed by the Commission in fixing salaries and allowances for the judiciary were enunciated in detail in the Explanatory Notes concerning reviews undertaken in 1978, 1981 and 1985. The Commission considers that by and large those principles are still valid.

EXPLANATORY MEMORANDUM—*continued**Procedures Adopted*

12. Written submissions were received from all classes of Judges in respect of their salaries and allowances and these submissions were discussed fully by the Commission with their representatives.

13. Advice and opinions were sought and obtained from many sources including some individual practitioners whose opinions the Commission considered to be of value. Comments were also obtained from relevant departments in regard to particular jurisdictions.

14. The Commission had access to a confidential report on a Law Practice Survey carried out by Waikato University for the New Zealand Law Society during 1988. This survey was valuable because the Commission was able to get valid information on the level of remuneration enjoyed by a cross section of lawyers in private practice, the one occupational group from whom judges are generally recruited.

15. Judges appointed to the District Court and the High Court since 1985 were surveyed and details were obtained of the taxable income received by each of them during the year prior to appointment.

16. The information obtained by the Commission indicates that in many areas of the legal profession earnings have risen since 1 April 1985 at a rate that is significantly above increases in other occupations.

17. The Commission also had access to reports on levels of salary and allowances enjoyed by the judiciary in some other countries. It noted with some interest the recent recommendations by the Remuneration Tribunal of Australia on judicial salaries where it appears that there has been great difficulty in recruitment and that some judges had left the bench because of inadequate pay. In contrast with the situation in Australia, recruiting and retaining suitably qualified members of the New Zealand judiciary does not appear as difficult. This was taken into account when making the determination.

18. Special consideration was given to the relativity of the salaries of various classes of judges. As a result, the relativities have been widened in some cases and narrowed in others. It is satisfied that these relativities are appropriate in relation to their respective jurisdictions and responsibilities as at 1 April 1988.

19. The Commission obtained details of the conditions of appointment of all classes of judges and took these into account when determining salaries.

20. The Commission consulted the Government Actuary in regard to the cost to the State of the various changes to the judges' superannuation scheme that it recommended to the Government in 1988. These costs were fully taken into account when making its determinations.

*Principal Allowances*

21. No adjustments have been made to judicial allowances since 1 December 1986. These allowances are considered by the Commission to be reimbursement allowances for expenses incurred on circuit and elsewhere and which are not easily accounted for. The present adjustment accordingly takes into account increases in relevant costs that have occurred since 1 December 1986.

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Issued under the authority of the Regulations Act 1936 and section 12B (3) of the Higher Salaries Commission Act 1977.

Date of notification in *Gazette*: 2 February 1989.